

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

JACOB BANSCHBACH,

Plaintiff,

vs.

BRUCE MILLER, et al.,

Defendants.

CV 19-41-H-BMM-JTJ

ORDER

United States Magistrate Judge John Johnston entered Findings and Recommendations in this case on December 9, 2019. Judge Johnston screened Plaintiff Jacob Banschbach’s (“Banschbach”) complaint under 28 U.S.C. §§ 1915 and 1915A. He allowed Banschbach’s claims against Officers Miller, Balteza, and Short for use of excessive force to move forward, but recommended that the remaining defendants be dismissed. (Doc. 7.) Banschbach filed objections to the Findings and Recommendations. (Docs. 8 and 9.)

The Court reviews de novo Findings and Recommendations timely objected to. 28 U.S.C. § 636(b)(1). The Court reviews for clear error the portions of the Findings and Recommendations not specifically objected to. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981).

Where a party's objections constitute perfunctory responses argued in an attempt to engage the district court in a reargument of the same arguments set forth in the original response, however, the Court will review the applicable portions of the findings and recommendations for clear error. *Rosling v. Kirkegaard*, 2014 WL 693315 *3 (D. Mont. Feb. 21, 2014) (internal citations omitted).

Banschbach makes three objections. He first objects to Judge Johnston's determination that Defendants Roe, Molendyke, and Neighbor should be dismissed from the failure to intervene claim. (Doc. 8 at 1-2.) He next objects to Judge Johnston's recommendation that Banschbach's Fourth/Eighth Amendment claim should claim that the strip search was unreasonable because it was done in front of a female officer should be dismissed. (*Id.* at 2-3.) He lastly objects to Judge Johnston's recommendation that Banschbach's failure to investigate claim should be dismissed. (*Id.* at 4-6.) Judge Johnston considered these arguments in making his recommendation to the Court. The Court finds no specific objections that do not attempt to relitigate the same arguments and will review Judge Johnston's Findings and Recommendations for clear error. The Court finds no error.

ORDER

Accordingly, **IT IS ORDERED** Judge Johnston's Findings and Recommendations (Doc. 7) are **ADOPTED IN FULL**. Defendants Woods, Zuber,

Beeson, Sheehan, Wodnik, Roe, Mendendhall, Molendyke, Neighbor, Scheet, Lovell, and Clark are **DISMISSED**. Banschbach's failure to intervene claims, failure to investigate, and Fourth Amendment/Eighth Amendment claims that the strip search was unreasonable because it was done in front of a female officer are **DISMISSED**. Banschbach's Motion to Expedite (Doc. 17) is **DENIED AS MOOT**.

DATED this 2nd day of March, 2020.



Brian Morris
United States District Court Judge